



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,987	04/20/2001	Ronald S. Chamberlain	2026-4231US3	2855

7590 11/21/2002
MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, NY 10154-0053

EXAMINER

WILSON, MICHAEL C

ART UNIT	PAPER NUMBER
----------	--------------

1632

DATE MAILED: 11/21/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/838,987

Applicant(s)

CHAMBERLAIN ET AL.

Examiner

Michael C. Wilson

Art Unit

1632

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 November 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-20.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

MICHAEL C. WILSON
PATENT EXAMINER

Continuation of 2. NOTE: the proposed amendment to page 5, describing Fig 1 would introduce information not present in the specification as originally filed. If support for the information can be found elsewhere in the specification describing Fig. 1, please to point to such by page and line number. The proposed claims have an altered scope of antigen which would require a new matter rejection, and enablement, indefiniteness rejections and considerations of the art not previously required. The proposed term "insert" in context of the claim would require an indefiniteness rejection. The proposed change to the second vector does not necessarily encode the same antigen which is an altered scope, requiring considerations of new matter, enablement and art not previously required. The limitation in claim 5 would require considerations of new matter, enablement and art not previously required. Please point to support for new phrases in the proposed claims specifically (using page and line number) .

Continuation of 5. does NOT place the application in condition for allowance because: Applicants arguments are moot because they are directed toward the proposed amendment which has not been entered. Claims 1-8 remain rejected for reasons of record regarding new matter. Claims 1-20 remain rejected for reasons of record regarding enablement, indefiniteness, and obviousness.